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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/523,500	02/02/2005	Christian Bederke	71647	1845
23872 7590 11/17/2008 MCGLEW & TUTTLE, PC P.O. BOX 9227 SCARBOROUGH STATION SCARBOROUGH, NY 10510-9227				
EXAMINER				
ELOSHWAY, NIKI MARINA				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
11/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/523,500

Applicant(s)

BEDERKE, CHRISTIAN

Examiner

NIKI M. ELOSHWAY

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 12-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 17-25 is/are allowed.
- 6) ☒ Claim(s) 1-8, 12-16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 12 and 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear how the locking catch is movable against the second coupling projection, as set forth in claim 12, when the claim 1 sets forth that the locking catch is an element of the second coupling projection (see lines 4-5 of claim 1).

The dependent claims not specifically mentioned are rejected as being dependent upon a rejected base claim since they inherently contain the same deficiencies therein.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-8 and 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Nitsche et al. (U.S. 5,560,088). Nitsche et al. teach a coupling piece, shown in figure 1) for joining two containers, that are stacked. The coupling piece comprises a stop plate at lead line 27 and a coupling projection 31, 32 on each side of the stop plate. The first coupling projection 31 is placed on a corner fitting of one of the

containers and the second coupling projection 32 is provided with a locking catch at lead line 36 for locking inside a corner fitting of the other container. The locking catch has a sloping shoulder at lead line 36 on an upper side thereof. The lead in taper is shown at lead lines 38 and 40. The lead in chamfer is shown above lead line 25 in figure 1.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Takaguchi (U.S. 4,564,984) in view of Nitsche et al. (U.S. 5,560,088). Takaguchi teaches a coupling piece at 1, having a stop plate at 2, a first coupling projection at 3 and a second coupling projection at 4. The second coupling projection 4 has a locking catch which is shown at lead line 12 in figure 3. When in the position shown in figure 4, the locking catch is dimensioned smaller than the associated hole, so that it may be inserted therein. The contours and lead in tapers are shown at lead line 4.

Takaguchi discloses the claimed invention except for the sloping shoulder. Nitsche et al. teach that it is known to provide a coupling piece with a sloping shoulder (see lead line 36). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the coupling piece of Takaguchi with the lead-in chamfer of Nitsche et al., in order to allow for a smooth alignment of the coupling piece in the container receiving hole.

Allowable Subject Matter

7. Claims 17-25 are allowed.

Response to Amendment

8. The Declarations under 37 CFR 1.132 filed August 6, 2008 is insufficient to overcome the rejection of the claims based upon the anticipation and obviousness rejections, as set forth in the last Office action for the following reasons:

The Declarations of Michael Steuermann and Erwin-Detlef Von Ahsen are unconvincing because it is not clear if the claimed invention's commercial success is directly derived from the invention claimed, in a marketplace where the consumer is free to choose on the basis of objective principles or is the result of heavy promotion or advertising, shift in advertising, consumption by purchasers normally tied to applicant or assignee, or other business events extraneous to the merits of the claimed invention. *In re Mageli*, 470 F.2d 1380, 176 USPQ 305 (CCPA 1973). The Declarations did not show that the claimed features were responsible for the commercial success of the article. It has been held that merely showing that there was commercial success of an article which embodied the invention is not sufficient. *Ex parte Remark*, 15 USPQ2d 1498, 1502-02 (Bd. Pat. App. & Inter. 1990).

Response to Arguments

9. Applicant's arguments filed March 28, 2008 have been fully considered but they are not persuasive. The arguments were addressed in the interview held on October 23, 2008.

Conclusion

10. **In view of the new grounds of rejection, THIS ACTION IS MADE NON-FINAL.**

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is 571-272-4538. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Niki M. Eloshway/
Niki M. Eloshway
Examiner
Art Unit 3781

nmc